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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,368	05/05/2006	Yukiyo Niwa	127913	5056
25944 7590 07/13/2009 OLIFF & BERRIDGE, PLC P.O. BOX 320850 ALEXANDRIA, VA 22320-4850				
EXAMINER				
BASS, DIRK R				
ART UNIT		PAPER NUMBER		
1797				
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07/13/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/578,368

Applicant(s)

NIWA, YUKIYO

Examiner

DIRK BASS

Art Unit

1797

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2009.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-38 is/are pending in the application.
4a) Of the above claim(s) 19, 20 and 22-37 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 21, 38 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. Applicant's election of group II, claim 21, in the reply filed on 19 May 2009 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse and is therefore made final (MPEP § 818.03(a)).
2. The amendment filed 19 May 2009 has been acknowledged. Claims 19-38 are currently pending in the application. Claims 19-20 and 22-37 are withdrawn from further consideration. Claim 21 and newly added claim 38 are considered on the merits.

Response to Amendment

3. In light of the amendment to claim 21, and newly added claim 38, the examiner modifies the rejections from the office action dated 19 February 2009.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. **Claims 21 and 38** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawamura et al. (JP 01-272930, IDS) in view of Riyoushiyo et al. (JP 2000-346946, IDS) (Riyoushiyo) and as evidenced by Kaburaki et al., US 6406914.

Regarding claim 21, Kawamura discloses an energy beam dosage measurement sheet (abstract) comprising:

- a. 5 to 50 parts by weight of a polymer compound having a hydroxyl group and at least one group selected from a halogen group and an acetal group (§ 0012-0013);
- b. 0.01 to 50 parts by weight of a coloring organic electron donor compound (§ 0013);
- c. 0.1 to 50 parts by weight of an active species generating organic compound for making the organic electron donor compound colored by radiation (§ 0013); and
- d. A radiation absorbent and/or a radiation excite fluorescent agent (see “energy beam absorption layer” in abstract).

Kawamura fails to explicitly disclose a composition having 50 to 95 parts by weight of a solvent and 0.1 to 500 parts by weight of a radiation absorbent and/or a radiation-excite fluorescent agent.

Riyoushiyo discloses a composition comprising a medium consisting of 50 to 95 parts by weight of a solvent (implicitly disclosed in § 0016) and 0.1 to 500 parts by weight of a radiation absorbent and/or a radiation excite fluorescent agent (see “radiation sensitizing agent”, § 0016).

Riyoushiyo clearly states “mixed to the medium”, which implicitly discloses the fact that the medium consists of 50-95 parts by weight of a solvent, said solvent making up the remaining parts by weight after all other components have been added in their respective amounts.

At the time of the invention, it would have been obvious to one skilled in the art to combine the components of Riyoushiyo with the indicator sheet of Kawamura because all the claimed elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Furthermore, while Kawamura fails to explicitly disclose a composition comprising 50 to 95 parts by weight of a solvent, it would have been obvious to one having ordinary skill in the art at the time of the invention to mix such a composition in a solvent, since it was known in the art that mixing such compositions in a solvent is effective, as evidenced by Kaburaki et al., US 6406914 (see example 21) (MPEP 2144.03, Sections A-E).

Regarding claim 38, Kawamura in view of Riyoushiyo further discloses a polymeric binder, wherein said polymeric binder is a vinyl chloride/vinyl acetate/vinyl alcohol copolymer (§ 0012-0013).

Response to Arguments

2. Applicant's arguments with respect to claim 21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIRK BASS whose telephone number is (571) 270-7370. The examiner can normally be reached on Mon - Fri (9am-4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vickie Kim can be reached on (571) 272-0579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

7/10/2009

/Yelena G. Gakh/
Primary Examiner, Art Unit 1797

/DRB/
Dirk R. Bass